

In the United States Court of Federal Claims

No. 06-760 L

(Filed April 13, 2007)

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JOHN R. MILDENBERGER, et al., *

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Plaintiffs, *

*

v. *

*

THE UNITED STATES, *

*

Defendant. *

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PRELIMINARY SCHEDULING ORDER

On April 5, 2007, pursuant to Appendix A, ¶ 4 of the Rules of the United States Court of Federal Claims (RCFC), the parties filed their joint preliminary status report (JPSR). Therein, the parties reported to the court that they anticipate that this case will go forward to litigation and that alternative dispute resolution is not a viable option at this time. The parties state that the subject matter should be bifurcated and have both a liability phase and a damages phase, with liability being addressed first. In that regard, counsel for the respective parties request that the parties be permitted to engage in discovery and determine if filing a dispositive motion is appropriate in lieu of or in addition to trial. Additionally, plaintiff may decide to file a motion for class certification pursuant to RCFC 23; defendant will oppose any such motion.

Upon an examination of the pleadings and the JPSR, pursuant to RCFC 16(b), it is hereby **ORDERED** that the parties' proposed schedule is **GRANTED**, as follows:

(1) Initial Disclosures, pursuant to RCFC 26(a), shall be exchanged between the parties on or before **May 11, 2007**.

(2) All **fact discovery**, including production of documents, depositions, interrogatories and requests for admissions, as well as any amendment of pleadings shall be **COMPLETED** on or before **October 11, 2007**.

(3) The parties shall identify and disclose all **expert witnesses** by **October 18, 2007**.

(4) The parties shall **COMPLETE** all **expert discovery** and **exchange expert reports** on or before **November 16, 2007**.

(5) On **November 30, 2007**, or two weeks after completion of discovery, whichever occurs earlier, counsel are directed to **FILE a Joint Status Report** informing the court of the status of proceedings in the case and the extent to which the parties have determined whether any or all of the instant matter may be settled. The status report shall also set forth a proposed schedule for the exchanges required by Appendix A, ¶ 13 and the filings required by ¶¶ 14 through 17. Finally, the parties are directed to inform the court whether any or all of the issues presented may be resolved by summary judgment and if so, a deadline for the submission of a moving brief shall be stated.

/s/Lynn J. Bush
LYNN J. BUSH
Judge

